IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 465 OF 2007

Chandrashekhar Sakharam Dhavane
and ors. ..Petitioners

Vs.

The State of Maharashtra and anr ..Respondents

Mr. Rakesh Bhatkar for petitioners.
Mr. D.P. Adsule, APP for State.
Mr. P.L. Singh for respondent no.2.

CORAM: B.H. MARLAPALLE, J.

Date : July 30, 2007.

P.C.:

1. Heard Mr. Bhatkar the learned counsel for the petitioners. On the application made by the present respondent no.2 Shri Sanjay Mukund Chavan to the Sub Divisional Officer under Section 133 of Cr.P.C., an order came to be passed by the said authority on 14/12/2005 allowing the said application and confirming the interim order dated 20/7/2004. By the interim order dated 20/7/2004 the constructed wall was directed to be demolished and this order came to be challenged in Criminal Revision Application No. 7 of

2006. The learned Sessions Judge at Ratnagiri was pleased to dismiss the revision by his Judgment and Order dated 29/11/2006 and hence this writ petition under Article 227 of the Constitution.

2. The SDO on the basis of the report submitted by the Tahsildar and duly supported by the panchanama drawn by inspection of the site clearly indicated that the petitioners are the owners of two different plots i.e. CTS Nos.863 and 868 and they are separated by a public road. These two plots were joined by constructing a wall on either sides so as to close the public road to the extent separating these two plots. This construction of the wall caused inconvenience to the public as the public road came to be diverted and, therefore, the application was squarely within the ambit of Section 133 of Cr.P.C. The learned counsel for the petitioners has relied upon a decision of this court in the case of Santosh Vana Patil vs. State of Maharashtra [2006 ALL MR (Cri) 2610] and submitted that it was not the case of public nuisance and on the contrary it was a basically a civil dispute between the complainant and the petitioners. Having regards

to the report submitted by the Tahsildar and the panchanama drawn, it is clear that it was not a case of civil dispute between two citizens but it was a case of public nuisance caused by the acts of the petitioners who had put up a wall and diverted the road so as to join their private property i.e. two plots separated by them.

3. Hence there is no case made out to cause interference in the view taken by the learned Sessions Judge and the petition is rejected summarily.

(B.H. Marlapalle,J.)